

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed January 20, 2004. Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 102(b)

A. Rejections Under Tsuria

Claims 1-7 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Tsuria et al. ("Tsuria," U.S. Pat. No. 5,939,975). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of *each element* of the claim under consideration." W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)(emphasis added). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102. In the present case, not every feature of the claimed invention is represented in the Tsuria reference.

Tsuria discloses an automobile theft prevention system that includes a card reader that is located within the automobile. As described by Tsuria in column 12, lines 37-44 (emphasis added):

In another preferred embodiment of the present invention, a smart card may be employed to determine whether the vehicle is stolen. In such a case, unless a valid smart card, such as smart card 46, is inserted in a smart card reader 38 *within a short time period after ignition of the vehicle*, the vehicle is determined to

be stolen. Preferably, the short time period may be of the order of 1 minute, and may be pre-programmed by the user.

Thus, *if the thief drives the vehicle without inserting smart card 46 in smart card reader 38*, smart card reader 38 provides processor 26 an indication of the lack of a valid smart card, and processor 26 determines a theft of the vehicle.

In that Tsuria's "smart card reader" is only used after one starts the vehicle and begins driving it, that smart card reader cannot satisfy Applicant's claimed "receiving user identity information with an external identity confirmation device of the resource prior to providing access to the resource". Specifically, Tsuria's smart card reader is not external relative to the resource (in this case an automobile), nor is the card reader used prior to access having been provided to the resource.

Applicant notes that Tsuria provides no disclosure of any other component that would satisfy the aforementioned claim limitation. Moreover, Applicant notes that Tsuria does not disclose any component that is configured for "receiving a user code with an external security device of the resource prior to providing access to the resource".

Due to these shortcomings of the Tsuria reference, Applicant respectfully asserts that Tsuria does not anticipate Applicant's claims 1 - 7. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

B. Rejections Under Bishop

Claims 1-4, 8, 10, 12-15, and 27-32 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Bishop et al. ("Bishop," U.S. Pat. No. 4,965,821). Applicant respectfully traverses this rejection.

Bishop also fails to disclose each and every limitation of Applicant's claims. Bishop discloses a cellular mobile radiotelephone-based system for rental of mobile equipment, such as automobiles. As described by Bishop, each automobile to be rented includes a cellular mobile radiotelephone (CMR) 16 that is connected to a card reader 234 that is used to read credit card data. Bishop, columns 5, line 5 to column 6, line 39. The CMRs are installed "in" each of the automobiles. Id.

The system can be used to check out automobiles. As described by Bishop in column 7, lines 1-14 (emphasis added):

A rental customer initiates the check-out procedure. When the customer arrives at rental car lot 14 (see FIG. 1), the customer goes to an automobile 12a within rental car lot 14 . . . In the preferred embodiment, keys for automobile 12a are located in automobile 12a at this point in the procedure, and *automobile 12a is unlocked*. Consequently, *the customer may quickly and easily selected automobile 12a, enter automobile 12a, and turn on the ignition. Once this has occurred, instructions displayed on display 232 (see FIG. 2) and on signs 33 (see FIG. 1) tell the customer to insert the specialized card (card 236) into card reader 234.*

In view of the above excerpt, it is clear that Bishop's card reader is not configured for "receiving user identity information with an external identity confirmation device of the resource prior to providing access to the resource", as is recited in Applicant's claim 1. Specifically, Bishop's card reader is not external relative to the resource (the card reader is "in" the automobile), and is not used prior to access being provided to the resource (the user first enters and starts the automobile).

As a further matter, Applicant notes that Bishop fails to disclose or suggest a component that is configured for “receiving a user code with an external security device of the resource prior to providing access to the resource”, as is also required by Applicant’s claim 1.

Due to these shortcomings, Applicant respectfully asserts that Bishop does not anticipate Applicant’s claims 1-4, 8, 10, or 12-15.

Turning to independent claim 27, Bishop likewise fails to teach or suggest either of “an identity confirmation device provided on the exterior of the automobile that determines the identity of the user” or “a security device provided on the exterior of the automobile that confirms the identity of the user” for reasons described above.

Due to these shortcomings, Applicant respectfully asserts that Bishop likewise does not anticipate Applicant’s claims 27-32.

C. Rejection Under Klein

Claim 16 has been rejected under 35 U.S.C. § 102(b) as being anticipated by Klein et al. (“Klein,” U.S. Pat. No. 5,726,885). Applicant respectfully traverses this rejection.

Klein discloses a vehicle hire transportation system in which an automatic collection and return machine (HA) is provided at various automobile collection and return points. Klein, column 4, lines 12-30. Each machine is equipped with a card issuing unit with which the machine issues “chip cards” that can be used to unlock a vehicle at the collection and return point. Id. at lines 46-50. Specifically, the chip card is read by a card reader provided on the automobile’s driver-side door. Id. at lines 50-52. When a valid chip card is read, “the vehicle is opened and an existing immobilizer

is disarmed, i.e. the ignition is enabled.” Id. at lines 52-55. As is further described in column 4, lines 60-63 (emphasis added):

The starting and switching off of the engine takes place in a customary manner by means of *an ignition key which is stored in the glove compartment* when the vehicle is not in use.

From the above, it is clear that Klein does not teach or suggest “receiving identity information from a user identity card with a card reader provided on the exterior of the automobile” as is required by Applicant’s claim 16. In particular, no “identity information” about the user is received because Klein’s chip card is issued by a machine at the collection and return point. In other words, the card used to access the automobile in the Klein system is not particular to (e.g., owned by) a given user, but instead is a generic card having a code that will unlock the automobile.

As a further matter, the Klein system is not configured for “receiving a user code with a security device provided on the exterior of the automobile”, as is also required by Applicant’s claim 16. Specifically, Klein only describes a card reader. No other “security device” is disclosed by Klein.

Additionally, Applicant notes that Klein does not teach or suggest “permitting the automobile engine to be started once the user identity card is received by a card reader located inside the automobile”, as is also required by Applicant’s claim 16. As noted above, the automobile is started in Klein’s system by simply obtaining a conventional key from the glove compartment. No card reader “located inside the automobile” is described.

Due to these shortcomings, Applicant respectfully asserts that Klein does not anticipate Applicant’s claim 16.

D. Rejection Under Miyamoto

Claim 1 has been rejected under 35 U.S.C. § 102(b) as being anticipated by Miyamoto et al. (“Miyamoto,” U.S. Pat. No. 6,011,320). Applicant respectfully traverses this rejection.

Miyamoto discloses a vehicle anti-theft device. As described by Miyamoto, a vehicle IC card 1 is used to unlock, and therefore access, a vehicle. In particular, data stored on the IC card is read by a vehicle controller 2 of the vehicle.

Despite the above-described teachings, Miyamoto fails to disclose “receiving user identity information with an external identity confirmation device of the resource prior to providing access to the resource” and “receiving a user code with an external security device of the resource prior to providing access to the resource”. In particular, Miyamoto does not teach *both* an “external identity confirmation device” and a *separate* “external security device”. Applicant notes that those components are described by separate limitations in Applicant’s claims and, therefore, Miyamoto must show both components to anticipate both limitations. At best, Miyamoto only shows one of those devices. Therefore, Miyamoto fails to anticipate each and every limitation of claim 1.

As a further matter, Applicant notes that Miyamoto does not teach or suggest “monitoring and recording information about use of the resource with a monitoring system of the resource” or “obtaining resource use information from the resource monitoring system of the resource”, which are also required by Applicant’s claim 1. Miyamoto’s disclosure is directed to enabling entry and ignition of a vehicle, not to monitoring use of the vehicle after it has been entered and started.

Due to these shortcomings, Applicant respectfully asserts that Miyamoto does not anticipate Applicant's claim 1.

II. Claim Rejections - 35 U.S.C. § 103(a)

A. Rejection of Claim 17

Claim 17 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Klein in view of Matsumoto (U.S. Pat. No. 6,417,781). Applicant respectfully traverses this rejection.

As identified above, Klein fails to teach several of the explicit claim limitations of claim 16. Matsumoto does not provide the missing teachings to account for those claim limitations. For instance, Matsumoto does not teach or suggest "receiving identity information from a user identity card with a card reader provided on the exterior of the automobile", "receiving a user code with a security device provided on the exterior of the automobile", or "permitting the automobile engine to be started once the user identity card is received by a card reader located inside the automobile", as are required by claim 16.

In view of these deficiencies, Applicant respectfully submits that claim 17, which depends from claim 16, is allowable over the Klein/Matsumoto combination for at least the same reasons that claim 16 is allowable over Klein.

B. Rejection of Claims 18-21 and 23-26

Claims 18-21 and 23-26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Klein in view of Bishop. Applicant respectfully traverses this rejection.

As identified above, Klein fails to teach several of the explicit claim limitations of claim 16. Bishop does not provide the missing teachings to account for those claim limitations. For instance, as described above, Bishop does not teach or suggest “receiving identity information from a user identity card with a card reader provided on the exterior of the automobile” or “receiving a user code with a security device provided on the exterior of the automobile”. In addition, Bishop also fails to teach or suggest “permitting the automobile engine to be started once the user identity card is received by a card reader located inside the automobile”, as are required by claim 16.

In view of these deficiencies, Applicant respectfully submits that claims 18-21 and 23-26, which depend from claim 16, are allowable over the Klein/Bishop combination for at least the same reasons that claim 16 is allowable over Klein.

C. Rejection of Claims 9, 11, and 22

Claims 18-21 and 23-26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Klein in view of Bishop and Matsumoto. Applicant respectfully traverses this rejection.

As a first matter, Applicant objects to the rejection as being *per se* improper. The Office Action rejects claim 9 without providing an explanation of how Klein, Bishop, and Matsumoto, alone or in combination, anticipate or render obvious the limitations of claims 1 and 8 from which claim 9 depends. In similar manner, the Office Action rejects claim 11 without providing an explanation of how Klein, Bishop, and Matsumoto, alone or in combination, anticipate or render obvious the limitations of claims 1 and 10 from which claim 11 depends. For at least these reasons, the rejection as to claims 9 and 11 should be withdrawn.

Irrespective of the above, Applicant notes that the preferred combination fails to render claims 9 and 11 obvious because none of Klein, Bishop, and Matsumoto teach or suggest “receiving user identity information with an external identity confirmation device of the resource prior to providing access to the resource”, “receiving a user code with an external security device of the resource prior to providing access to the resource”, or “confirming the eligibility of the user to use the resource relative to the identity information and the user code”, which are required by claim 1 (from which claims 9 and 11 depend).

As for claim 22, Applicant again notes that Klein fails to teach several of the explicit claim limitations of claim 16. Given that, as described above, neither Bishop nor Matsumoto provides the missing teachings to account for those claim limitations, claims 18-21 and 23-26, which depend from claim 16, are allowable over the Klein/Bishop combination for at least the same reasons that claim 16 is allowable over Klein.

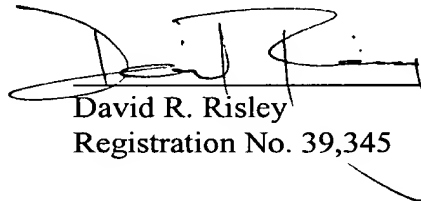
III. Canceled Claim

As identified above, claim 5 have been canceled from the application through this response without prejudice, waiver, or disclaimer. Applicant reserves the right to present that canceled claim, or variants thereof, in continuing applications to be filed subsequently.

CONCLUSION

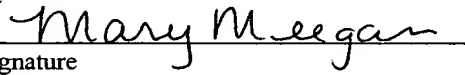
Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,


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